IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	Criminal No. 1:09-CR-00254
	:	
v.	:	(Judge Kosik)
	:	
DANIEL J. COCHRAN, JR.	:	(Electronically Filed)

SENTENCING MEMORANDUM

Mr. Cochran will come before the Court as a 45-year-old father of four children with absolutely no prior criminal history. Rather, his history is that of a hard-working, dedicated, loving, and honest man whose life has been defined by his service to his county and to his community. Mr. Cochran files this Sentencing Memorandum addressing certain considerations identified in Section 3553(a) of the Sentencing Reform Act of 1984, 18 U.S.C. §3553(a), that are not otherwise deemed relevant under the United States Sentencing Guidelines, *see United States v. Booker*, 534 U.S. 220, 260 (2005); U.S. Sentencing Guideline Manual §§5H1.1 - 5H1.12 (2005) (hereinafter cited as U.S.S.G.), specifically, the nature and circumstances of the offense, the history and characteristics of Mr. Cochran, and the need for the sentence imposed. *See* 18 U.S.C. §3553(a)(1-2).

Brief Procedural History

On September 21, 2010, the defendant, Mr. Cochran, appeared before Magistrate Judge Smyser and pled guilty to Count 1, charging him with criminal conspiracy to commit mail fraud and Count 180, a criminal forfeiture count. The parties agreed that the loss amount suffered by the victim is $1,500,000. A presentence report was disclosed to the parties on November 18, 2010. In the presentence report, the United States Probation Office calculated a guideline range of 30 to 37 months based on a total offense level of 19 and a criminal history category of I. As part of the plea agreement, the government agreed to recommend a sentence at the bottom of the advisory guideline range. *See* (PSR, ¶ 3)

Argument

Mr. Cochran Respectfully Requests this Honorable Court to Grant a Downward Variance and to Impose a Sentence of 12 Months and 1 Day Based upon the Nature and Circumstances of the Offense, the History, Background the Characteristics of Mr. Cochran, and the Need for the Sentence Imposed.

A. The Nature and Circumstances of the Offense

The within criminal prosecution arose as a result of cut corners, careless business practices, and the submission and approval of fraudulent invoices for time, services and equipment to Adecco.

Mr. Cochran built a career in the field of information technology. He is an entrepreneur and is the owner and operator of two information technology consulting firms, Technology Products & Services (TPS) and Information Technology Management Systems, Inc. (ITMS). Before Mr. Cochran created his own businesses, he was employed by Docutech, an information technology consulting company, which provided consulting work for Ajilon Consulting, a wholly owned Adecco subsidiary.

Between 2003 and 2006, co-defendant David Bossi served as a Vice-President for Ajilon Consulting. It is at Ajilon that Mr. Cochran formed a business relationship with David Bossi. Mr. Bossi and Mr. Cochran worked together at Ajilon through 2006.

Through his exemplary work at Ajilon and Adecco, David Bossi earned the respect of senior executives, which led to his appointment as Project Director for Adecco's Data Center Consolidation (DCC) project and promotion to Vice-President. IBM was contracted to deliver the technological solution for the DCC Project. In addition to IBM, David Bossi and Adecco Management needed an information technology consultant to review the IBM deliverables and to look for savings with respect to various aspects of the DCC. Based upon their business relationship and Mr. Cochran's proven results at Ajilon, David Bossi suggested

Mr. Cochran for the job, and Adecco Executives agreed and approved the employment of Mr. Cochran as an independent consultant for the DCC project. Adecco and Mr. Cochran orally agreed to a weekly salary plus expenses. No written contract was executed between the parties.

During his employ, Mr. Cochran provided an enormous amount of consulting services to Adecco. He worked tirelessly to provide sound recommendations to Adecco with respect to various aspects of information technology. Dan Cochran's primary purpose at Adecco was to generate savings, by reviewing outgoing expenditures on various aspects of information technology, and to find areas of savings for the company. It is undisputed that IBM's shortcomings in delivering the DCC led to increased responsibilities for Mr. Cochran.

The DCC project presented an invaluable opportunity for Adecco to save money and cut costs. As Project Director, David Bossi was under an immense amount of pressure to get the job done quickly, efficiently, and to the satisfaction of senior corporate executives and shareholders. It is undisputed that David Bossi and Daniel Cochran were an integral part of the DCC project and its ultimate successful completion under budget.

In addition to the legitimate invoices submitted by ITMS and TPS, additional invoices, which were not accurate, were also submitted. As Project Director for the DCC, Mr. Bossi reviewed all invoices submitted by vendors, including invoices submitted by Mr. Cochran. Based upon Mr. Bossi's review and approval of the invoices, senior executives at Adecco authorized payment, and checks were mailed to Mr. Cochran for payment of all invoices. Mr. Cochran submitted the fraudulent invoices and aligned them to projects at Mr. Bossi's direction, based upon a side agreement for value of savings, which was not authorized by Adecco. Based upon the submission and payment of these fraudulent invoices, Mr. Cochran and Mr. Bossi pled guilty to criminal conspiracy to commit mail fraud and agreed that loss in this matter is $1.5 million.

At or about the same time, Mr. Cochran and Mr. Bossi were creating a separate retail business known as Retail Partners, Inc. Mr. Cochran paid Mr. Bossi as a consultant for this endeavor with proceeds which Mr. Cochran received from Adecco. The loss calculation excludes a significant portion of the money Mr. Cochran paid to Mr. Bossi, because it was compensation for work Bossi performed for Retail Partners, Inc. Mr. Cochran takes full responsibility for his actions and agreed to forfeit his home, his vehicles, his bank accounts, and any other assets the government seeks to pay restitution to Adecco in a timely manner.

B. The History, Background and Characteristics of Mr. Cochran

As reflected in the presentence report, Mr. Cochran graduated high school in 1983, and enlisted in the United States Army, serving until he was honorably discharged as a sergeant in 1987. *See* (PSR ¶¶47, 59)

Mr. Cochran is a hard worker. Following his release from the military, Mr. Cochran built a career in the field of Information Technology starting at the Baltimore Sun newspaper, and later working with T. Rowe Price, Legg Mason, GE Capital and Docutech through the 1980's and 1990's. *See* (PSR ¶¶ 53-58) Mr. Cochran is an entrepreneur at heart and ultimately created his own information technology firms, ITMS and TPS. *See* (PSR ¶¶ 49, 50) At the same time, his true passion and dream was to create a retail business. He formed Retail Partners, Inc., and opened a retail store named Cheaper By The Dollar, which is one part of a multi-faceted business plan to create, market and franchise a line of retail businesses. Recently, Mr. Cochran turned ownership of this company over to his cousin, Mike Shifflett, as a result of the uncertainty of this case. *See* (PSR ¶ 48).[1]

Apart from his professional success, Mr. Cochran’s life is defined by hard work, determination and a true drive to do the right thing in life. Pastor Russell

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[1]Michael Shifflett and his wife, Christine, are also the sole financial investors in Retail Partners, Inc., and have invested over $600,000 of their personal money into the business venture.

Long, someone who has known Dan Cochran since 1978 explains that Mr. Cochran was instrumental in donating and installing a telephone system for the church. *See* Exhibit "C," Letter from Russell J. Long, Senior Pastor, Bel Air Church of the Nazarene. Pastor Long describes Mr. Cochran's current attitude as "positive" and notes that Dan"expressed a desire to take responsibility for his dilemma and begin to get his life back on track." *See* Exhibit "C." Pastor Long goes on to state "Dan has always been a very hard working young man . . . an entrepreneur . . . bright, hardworking and creative . . . and that he hopes that Dan will "learn from his mistakes and continue to use his abilities to make a positive contribution to the community in which he lives and serves. *See* Exhibit "C."

This case has been emotionally devastating for Mr. Cochran and for those who love him. Mr. Cochran has worked "since he was twelve years old," and has "always tr[ied] to better himself." *See* Exhibit "A," letter from Constance Cochran, Daniel Cochran's mother. She describes Mr. Cochran as a caring individual who "is liked by anyone who knows him." *See* Exhibit "A." Mr. Cochran's legacy will ultimately be his generosity. He "has spent his life helping other people," . . . "love[s] the work he did and always gave 150%." *See* Exhibit "A."

Remarkably, Mr. Cochran's ex-wife, Debra Cochran, someone who has known Mr. Cochran for 31 years, describes him as "driven, smart, dedicated and extremely hard worker." *See* Exhibit "B," letter from Debra L. Cochran. Mrs. Cochran also described Mr. Cochran as taking "pride in everything he accomplishes and . . . even more pride in giving to others when he is able." *See* Exhibit "B." Mrs. Cochran was married to Mr. Cochran for 18 years and has three children with Mr. Cochran. She remembers that "Dan worked endlessly so that he could give me and our children a good life." *See* Exhibit "B," and expresses her shock over Dan's involvement with the current offense, stating that Mr. Cochran is someone who "would never want to jeopardize . . . his family . . . by doing something dishonest." *See* Exhibit "B."

Mr. Cochran gives to others, even when he is not financially able. For example, even during this difficult time in his life, Mr. Cochran opened his home to his friend, Chris Mantasevec and his family, who were in need of a place to live. Mr. Cochran is a kind, considerate man, who loves his family and friends, and looks forward to serving his sentence and paying restitution, so that he can move forward, rebuild his career, and return to his family.

C. The Need for the Sentence Imposed

Since his firing at Adecco just over two years ago, Mr. Cochran has been personally and professionally humiliated. In that time, Mr. Cochran has lost everything: his home; his retirement; his vehicles; his bank accounts; and his integrity. He works long hours at Retail Partners, Inc., but the business is not profitable, so there is no income from which Mr. Cochran can draw a salary. His daughter receives welfare benefits, and he and his family receive approximately $600 per month in food stamps. *See* (PSR, ¶ 63) Mr. Cochran maintains a positive attitude, but recognizes that his poor decisions at Adecco and the resulting fraud has financially ruined his life and the life he worked so hard to create for his family.

Mr. Cochran's current circumstance and the collateral consequences suffered from this offense may, in and of itself, be viewed as punishment. Mr. Cochran is doing everything possible to save a struggling business and the impending sentence of incarceration will be a hardship for not only himself, but also for his family and for Michael Shifflett, owner and operator of Retail Partners, Inc.[2] The information technology firms still exist in name, but are essentially ruined as a result of this offense. Mr. Cochran is not a danger to society. He is a man who prides himself in integrity, hard work and helping others, which is why he is so ashamed and embarrassed about his involvement in this offense. His desire to do the right thing is the driving force behind his motivation to cooperate with the forfeiture process

[2]Michael Shifflett intends to appear at sentencing on Mr. Cochran's behalf to testify about the business and Mr. Cochran's role in Retail Partners, Inc.

and to make the victim whole through payment of restitution.

We believe a sentence of one year and one day, a sentence below the advisory guideline range, is "sufficient, but not greater than necessary," to comply with the purposes of sentencing. *See* 18 U.S.C. § 3553(a). Such a sentence is long enough to punish Mr. Cochran for his conduct, and to afford adequate deterrence, in light of the collateral consequences already suffered by Mr. Cochran.

Conclusion

Mr. Cochran respectfully requests that Your Honorable Court grant his request for a downward variance and to impose a sentence of twelve months and one day based upon his otherwise law-abiding life, his contributions to his country and his community, his remorse, and the punishment and loss he's already endured. Mr. Cochran further respectfully requests that this Honorable Court permit him to voluntarily surrender and to recommend to the Federal Bureau of Prisons that he be designated to serve his sentence at the Federal Prison Camp at Schuylkill, if he so qualifies.

Respectfully submitted,

Date: January 18, 2011

/s/ Heidi R. Freese

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CERTIFICATE OF SERVICE

I, Heidi R. Freese of the Federal Public Defender's Office, do hereby certify that I served a copy of the foregoing **Sentencing Memorandum**, via Electronic Case Filing, or by placing a copy in the United States mail, first class in Harrisburg, Pennsylvania, addressed to the following:

KIM D. DANIEL, ESQUIRE
UNITED STATES ATTORNEY'S OFFICE

DANIEL J. COCHRAN, JR.

Date: January 18, 2011

/s/ Heidi R. Freese

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